

OFF-HIGHWAY VEHICLE OPERATOR EDUCATION AND CERTIFICATION PROGRAM

*Administrative Rules of the Texas Department of Licensing and Regulation
16 Texas Administrative Code, Chapter 99
(Effective September 1, 2020)*

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99.1. Authority. *(New Section adopted effective September 1, 2020, 45 TexReg 6095)*

This chapter is promulgated under the authority of Texas Occupations Code, Chapter 51, and Texas Transportation Code, Chapter 551A.

99.10. Definitions. *(New Section adopted effective September 1, 2020, 45 TexReg 6095)*

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

- (1) All-terrain Vehicle Safety Institute (ASI)--A not-for-profit operating division of the Specialty Vehicle Institute of America (SVIA), formed to implement an expanded national program of all-terrain vehicle safety education and awareness.
- (2) Commission--Texas Commission of Licensing and Regulation.
- (3) Department--Texas Department of Licensing and Regulation.
- (4) Off-highway vehicle--An all-terrain vehicle, a recreational off-highway vehicle, a sand rail, or a utility vehicle, as those terms are defined in Texas Transportation Code §551A.001.
- (5) Program--The Off-Highway Vehicle Operator Education and Certification Program administered by the department to make available courses in basic training and safety skills relating to the operation of off-highway vehicles and to issue safety certificates to operators who successfully complete the courses.
- (6) Program sponsor--An entity with which the department enters into an agreement to administer the program.
- (7) Safety certificate--A certificate that allows a person to operate an off-highway vehicle on public off-highway vehicle land or a beach, in accordance with Transportation Code §551A.031.
- (8) Safety training course--A course of instruction in off-highway vehicle operation that fulfills the training requirement for a person to obtain a safety certificate.

99.20. Program Sponsor. *(New Section adopted effective September 1, 2020, 45 TexReg 6095)*

The department may enter into an agreement with a nonprofit safety organization, nonprofit educational organization, institution of higher education, or agency of local government to serve as a program sponsor.

99.22. Instructor. *(New Section adopted effective September 1, 2020, 45 TexReg 6095)*

- (a) A person must be a department-approved instructor to teach a safety training course.
- (b) To be eligible to become an approved instructor, a person must:
 - (1) successfully complete a department-approved instructor preparation course;
 - (2) enter into an instructor license agreement with a program sponsor; and
 - (3) submit an application on a form prescribed by the department.
- (c) The department adopts the most current version of ASI's Instructor Preparation Course as the approved instructor preparation course for the program.
- (d) A person's approval as an instructor is valid for the period stated in the instructor license agreement with the

program sponsor and may be extended or renewed as provided in the agreement.

99.24. Safety Training Course. *(New Section adopted effective September 1, 2020, 45 TexReg 6095)*

- (a) The curriculum for a safety training course shall consist of a department-approved course and the distribution of information about Texas laws which pertain to off-highway vehicles.
- (b) The department adopts the most current version of ASI's ATV RiderCourse that includes hands-on training as the approved course for the program.
- (c) Safety training courses attended by children under age 16 shall be modified according to the most current standards of ASI.
- (d) All off-highway vehicles used for training in a safety training course shall be no greater than the recommended size for the person in accordance with the age/size recommendations of the manufacturer.
- (e) A program sponsor may not allow a child under the age of 18 to participate as a student in a safety training course unless the program sponsor has obtained:
 - (1) the signed, written consent of the child's parent or guardian on a form that includes the appropriate age recommendations listed in the most current ASI Instructor Guide; and
 - (2) written consent, signed by a parent or other person listed in Texas Family Code §32.001(a), for the individual to receive medical treatment for any injury that may occur during the course.
- (f) A program sponsor may charge a fee for a safety training course that is reasonably related to the cost of administering the course.
- (g) A program sponsor shall determine appropriate locations for safety training courses based on the quantity of training requests and the availability of training facilities and instructors.

99.26. Operator Certification. *(New Section adopted effective September 1, 2020, 45 TexReg 6095)*

- (a) An instructor shall issue a safety certificate to a student immediately following the student's successful completion of a safety training course.
- (b) A program sponsor shall provide to the department, in a manner prescribed by the department, the names of all persons who successfully complete a safety training course, no later than 45 days after the date of course completion.
- (c) A program sponsor may issue a duplicate safety certificate to a person whose safety certificate is lost, mutilated, or destroyed.

99.30. Exemptions. *(New Section adopted effective September 1, 2020, 45 TexReg 6095)*

A person who resides in a county in which a safety training course is not being offered is exempted from the requirement to hold a safety certificate for operation of an off-highway vehicle on public land or a beach in that county until such time as a safety training course is available in that county.

99.90. Administrative Penalties and Sanctions. *(New Section adopted effective September 1, 2020, 45 TexReg 6095)*

If a person violates any provision of Texas Occupations Code, Chapter 51, Texas Transportation Code, Chapter 551A, this chapter, or any rule or order of the commission or the executive director of the department, proceedings may be instituted to impose administrative penalties, administrative sanctions, or both, in accordance with the provisions of Texas Occupations Code, Chapter 51, and Texas Transportation Code, Chapter 551A, as applicable, and any associated rules.

99.92. Enforcement Authority. *(New Section adopted effective September 1, 2020, 45 TexReg 6095)*

The enforcement authority granted under Texas Occupations Code, Chapter 51, and Texas Transportation Code, Chapter 551A, and any associated rules, may be used to enforce Texas Transportation Code, Chapter 551A, and this chapter.

99.100. Off-Highway Vehicle Warning Flag. *(New Section adopted effective September 1, 2020, 45 TexReg 6095)*

A person who operates an off-highway vehicle on a public highway pursuant to Texas Transportation Code §551A.057 or §551A.058 must have a warning flag mounted on the rear of the vehicle that meets the following standards:

- (1) the warning flag must be comprised of a fluorescent-orange-colored, triangular-shaped flag, a staff or pole, and a mounting apparatus;
- (2) the flag must measure not less than 7.5 inches nor more than 10 inches across the base and not less than 16 inches nor more than 24 inches from the base to the point of the triangle and must be constructed of a coated fabric or other material sufficient to render it resistant to deterioration by the elements;
- (3) the staff or pole must measure not less than 8 feet nor more than 9 feet from the mounting surface to the tip, must be not less than 1/4 inch nor more than 1/2 inch in diameter, and must be constructed of a material or in such a manner as to allow it to flex or bend as much as 45 degrees without breaking and return to a vertical position; and
- (4) the mounting apparatus must be sufficient to attach it securely at the base to the rear area of the vehicle and in an upright position.

99.102. Operation on Land Designated for Off-Highway Vehicle Use by Texas Parks and Wildlife Department. *(New Section adopted effective September 1, 2020, 45 TexReg 6095)*

No person shall operate an off-highway vehicle on land designated by the Texas Parks and Wildlife Department for off-highway vehicle use unless an off-highway decal has been affixed to the off-highway vehicle in compliance with Texas Parks and Wildlife Code §29.003.